

COUNCIL MEETING NOTICE AND AGENDA
WEDNESDAY, SEPTEMBER 2, 2015
8:30 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 201
LĪHUʻE, KAUAʻI, HAWAII 96766

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. July 1, 2015 Council Meeting
2. July 15, 2015 Council Meeting
3. August 5, 2015 Council Meeting

E. CONSENT CALENDAR:

1. [C 2015-231](#) Communication (08/03/2015) from the County Engineer, transmitting for Council consideration, a Resolution Establishing Truck Restrictions for Nani Street and Leleiona Street, Līhuʻe District, County of Kauaʻi, State of Hawaiʻi. (***See Resolution No. 2015-58***)
2. [C 2015-232](#) Communication (08/14/2015) from the Director of Finance and the Accounting Systems Administrator, transmitting for Council information, the Inventory Report for the Fiscal Year Ending, June 30, 2015. (*Copy on file in the County Clerk's Office.*)
3. [C 2015-233](#) Communication (08/19/2015) from the County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims against the County of Kauaʻi from April 1, 2015 through June 30, 2015.

F. COMMUNICATIONS:

1. [C 2015-223](#) Communication (07/30/2015) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds in the amount of \$163,000, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for the Sex Assault Prosecution Unit, for the period of January 1, 2016 through December 31, 2016, to create a Sex Assault Prosecution Unit, which will consist of a 0.90 Full Time Equivalent (FTE) Special Prosecuting Attorney and 1.00 FTE Legal Clerk, as well as training, an increase in the contract with the YWCA Sexual Assault Treatment Program, supplies, and equipment. *(See also CR-BF 2015-23; the Budget & Finance Committee recommended approval on August 26, 2015.)*
2. [C 2015-226](#) Communication (08/03/2015) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds in the amount of \$95,535, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for Ke 'Ahi Pio'ole, also known as the Cold Case Unit, for the period of January 1, 2016 to December 31, 2016, to continue the work involved in solving the island's cold cases. The funding will be utilized for consultants, overtime for Kaua'i Police Department Detectives and the Office of the Prosecuting Attorney's Special Investigators, training, travel for interviews, DNA submission, digital photographs and/or transcripts, and office supplies. *(See also CR-BF 2015-24; the Budget & Finance Committee recommended approval on August 26, 2015.)*
3. [C 2015-227](#) Communication (08/11/2015) from Councilmember Kualii, requesting agenda time to discuss and approve for inclusion in the 2016 County of Kaua'i and Hawai'i State Association of Counties (HSAC) Legislative Packages, a proposed amendment to Section 387-2, Hawai'i Revised Statutes (HRS), that would increase Hawai'i's statewide minimum wage to \$15.00, effective January 1, 2019. *(See also CR-EDIR 2015-04; the Economic Development & Intergovernmental Relations Committee recommended C 2015-227 be received for the record.)*
4. [C 2015-228](#) Communication (08/11/2015) from Councilmember Kualii, requesting agenda time to discuss and approve for inclusion in the 2016 County of Kaua'i and Hawai'i State Association of Counties (HSAC) Legislative Packages, a proposed new Chapter to the Hawai'i Revised Statutes (HRS) entitled "Paid Sick Leave," which would require many employers to provide a minimum amount of paid sick leave to employees to care for themselves or a family member who is ill, needs medical care, or is the victim of domestic violence, sexual assault, or stalking. *(See also CR-EDIR 2015-05; the Economic Development & Intergovernmental Relations Committee recommended C 2015-228 be received for the record.)*

5. [C 2015-234](#) Communication (08/05/2015) from the Executive on Aging, requesting Council approval to receive and expend additional grant funding in the amount of \$3,000, from the Corporation for National and Community Service for the budget period, April 1, 2015 to March 31, 2016 to be used for long distance travel for two (2) Project Staff to attend training to carry out the national service program as authorized by the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C., Chapter 22). This grant amendment will increase the total amount awarded for the Kaua'i Retired and Senior Volunteer Program (RSVP) to \$65,847.
6. [C 2015-235](#) Communication (08/24/2015) from Council Chair Rapozo, requesting agenda time to discuss and approve for inclusion in the 2016 County of Kaua'i and Hawai'i State Association of Counties (HSAC) Legislative Packages, a proposed Bill to clarify the counties' zoning authority by distinguishing Single-Family residential use from Single-Family vacation rental use and allow amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period.
7. [C 2015-236](#) Communication (08/27/2015) from the County Attorney, requesting authorization to expend funds up to \$50,000 to retain Special Counsel to represent Irvin Magayanes in State of Hawai'i vs. Irvin Magayanes, Criminal Number CR15-1-0267 (Fifth Circuit Court), and related matters; reimburse De Costa, Hempey, Meyers LLC for all expenses for representation thus provided; and related matters.
8. [C 2015-237](#) Communication (08/27/2015) from Council Chair Rapozo, requesting the presence of the Prosecuting Attorney, to provide a briefing on the Ke 'Ahi Pio'ole Cold Case Unit and an update on the cases outlined in the Fiscal Year 2014 Edward J. Byrne Memorial Justice Assistance Grant (JAG).

G. LEGAL DOCUMENT:

1. [C 2015-238](#) Communication (08/19/2015) from the County Engineer, recommending Council approval of a Right-of-Entry Agreement between the County of Kaua'i and the Association of Apartment Owners of Pono Kai ("Pono Kai"), for a temporary detour path for shared use path users located within TMK (4) 4-5-007:002, for repairs to the seawall fronting Pono Kai as the construction work area will extend into the adjacent shared use path.
 - Right-of-Entry Agreement

H. CLAIMS:

1. C 2015-239 Communication (08/14/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Victorino Nunez, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. C 2015-240 Communication (08/20/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Susan J. Blaylock, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:1. PLANNING COMMITTEE:

- a. **CR-PL 2015-17:** on Bill No. 2459 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Special Standards For Issuance Of Farm Worker Housing Use Permits*)
[Approved.]

2. ECONOMIC DEVELOPMENT & INTERGOVERNMENTAL RELATIONS COMMITTEE:

- a. **CR-EDIR 2015-04:** on C 2015-227 Communication (08/11/2015) from Councilmember Kualii, requesting agenda time to discuss and approve for inclusion in the 2016 County of Kaua'i and Hawai'i State Association of Counties (HSAC) Legislative Packages, a proposed amendment to Section 387-2, Hawai'i Revised Statutes (HRS), that would increase Hawai'i's statewide minimum wage to \$15.00, effective January 1, 2019.
[Motion to approve failed.]

b. CR-EDIR 2015-05: on C 2015-228

Communication (08/11/2015) from Councilmember Kualii, requesting agenda time to discuss and approve for inclusion in the 2016 County of Kaua'i and Hawai'i State Association of Counties (HSAC) Legislative Packages, a proposed new Chapter to the Hawai'i Revised Statutes (HRS) entitled "Paid Sick Leave," which would require many employers to provide a minimum amount of paid sick leave to employees to care for themselves or a family member who is ill, needs medical care, or is the victim of domestic violence, sexual assault, or stalking. **[Motion to approve failed.]**

c. CR-EDIR 2015-06: on Resolution No. 2015-57 RESOLUTION SUPPORTING ECONOMIC JUSTICE FOR HAWAII'S WORKING FAMILIES: LIVING WAGE, PAID SICK LEAVE, PAID FAMILY AND MEDICAL LEAVE, AND RIGHT TO ORGANIZE **[Referred to the October 7, 2015 Council Meeting.]**

3. BUDGET & FINANCE COMMITTEE:**a. CR-BF 2015-23:** on C 2015-223

Communication (07/30/2015) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds in the amount of \$163,000, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for the Sex Assault Prosecution Unit, for the period of January 1, 2016 through December 31, 2016, to create a Sex Assault Prosecution Unit, which will consist of a 0.90 Full Time Equivalent (FTE) Special Prosecuting Attorney and 1.00 FTE Legal Clerk, as well as training, an increase in the contract with the YWCA Sexual Assault Treatment Program, supplies, and equipment. **[Approved.]**

b. CR-BF 2015-24: on C 2015-226

Communication (08/03/2015) from the Prosecuting Attorney, requesting Council approval to receive and expend Federal funds in the amount of \$95,535, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for Ke 'Ahi Pio'ole, also known as the Cold Case Unit, for the period of January 1, 2016 to December 31, 2016, to continue the work involved in solving the island's cold cases. The funding will be utilized for consultants, overtime for Kaua'i Police Department Detectives and the Office of the Prosecuting Attorney's Special Investigators, training, travel for interviews, DNA submission, digital photographs and/or transcripts, and office supplies. **[Approved.]**

c. CR-BF 2015-25: on BF 2015-04

Communication (07/29/2015) from Council Chair Rapozo and Council Vice Chair Kagawa, requesting the presence of the Director of Finance and the Real Property Tax Manager, to discuss the assessment of real property, the way real property is assessed, the methodology used by the Real Property Tax Assessment Division to assess property, and all other related issues. **[Received for the Record.]**

d. CR-BF 2015-26: on Bill No. 2591

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND AND SEWER FUND (*Kaua'i Lagoons Resort Wastewater Treatment Capacity Assessment Refund - \$758,550*) **[Approved.]**

e. CR-BF 2015-27: on Bill No. 2592

A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC **[Approved.]**

J. RESOLUTIONS:

1. [Resolution No. 2015-52](#) – RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO TERM LIMITS FOR COUNCILMEMBERS (*Public Hearing held August 19, 2015*)

2. [Resolution No. 2015-56](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Roy K. Ho – Labor*) (*Deferred August 19, 2015*)

3. [Resolution No. 2015-58](#) – RESOLUTION ESTABLISHING TRUCK RESTRICTIONS FOR NANI STREET AND LELEIONA STREET, LIHU'E DISTRICT, COUNTY OF KAUAI, STATE OF HAWAII

K. BILLS FOR SECOND READING:

1. [Bill No. 2459](#) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Special Standards For Issuance Of Farm Worker Housing Use Permits*) (*See also CR-PL 2015-17; the Planning Committee recommended approval on second and final reading.*)

2. [Bill No. 2591](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND AND SEWER FUND (*Kauai Lagoons Resort Wastewater Treatment Capacity Assessment Refund - \$758,550*) (*See also CR-BF 2015-26; the Budget & Finance Committee recommended approval on second and final reading.*)

3. [Bill No. 2592](#) – A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC (*See also CR-BF 2015-27; the Budget & Finance Committee recommended approval on second and final reading.*)

L. EXECUTIVE SESSION: *Pursuant to Hawai'i Revised Statutes (HRS) §92-7(a), the Council may, when deemed necessary, hold an Executive Session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such Executive Session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). (Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)*

1. ES-810 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the quarterly report on pending and denied claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
2. ES-811 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the retention of Special Counsel to represent Irvin Magayanes in State of Hawai'i vs. Irvin Magayanes, Criminal Number CR15-1-0267 (Fifth Circuit Court), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
3. ES-812 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing on the Public Access Acquisition Plan and Condemnation Proceedings at Kukui'ula Bay through the former Hoban property (Kōloa District), Tax Map Key No. (4)2-6-003:017, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

4. ES-813 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), (6) and (8), and Kaua'i County Charter Section 3.07(E), the Kaua'i County Council may request to go into an Executive Session with the Office of the County Attorney to provide the Council with a briefing on the Ke 'Ahi Pio'ole Cold Case Unit and an update on the cases outlined in the Office of the Prosecuting Attorney's Fiscal Year 2014 Edward J. Byrne Memorial Justice Assistance Grant (JAG), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

M. ADJOURNMENT.

- N. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for a public hearing on the following. After the public hearing, the Council will reconvene to complete any unfinished business.

*[*For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.]*

For a copy of the notice, please go to:

<http://www.kauai.gov/Government/CountyCouncil/PublicHearingNoticesandMinutes/tabid/599/Default.aspx>

1. [Bill No. 2593](#) – A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND, HIGHWAY FUND, LIQUOR FUND, SOLID WASTE FUND, SEWER FUND, AND GOLF FUND (*Units 2, 3, and 4 Collective Bargaining Increases – \$912,369*)
 2. [Bill No. 2594](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING SECTION 19 OF THE OPERATING BUDGET PROVISOS
 3. [Bill No. 2595](#) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Kaua'i Police Department, Legal Analyst – \$124,165*)
- O. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI, HAWAII 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

*TO VIEW MEETINGS OR MEETING ARCHIVES, PLEASE VISIT: WWW.KAUAI.GOV/WEBCASTMEETINGS.